

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DARNELL WESLEY MOON,

Plaintiff,

vs.

WENDY J. ROAL, FERNANDO
CASTILLO, S. JULIAN, UNITED
STATES OF AMERICA, and
WINKLEMEYER,

Defendants.

Case No. 12-cv-0983-MJR-SCW

ORDER

REAGAN, District Judge:

In September 2012, *pro se* Plaintiff Darnell Moon, an inmate at the federal penitentiary in Marion, Illinois, sued the above-captioned defendants pursuant to *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971) and the Federal Tort Claims Act (28 U.S.C. § 1346(b)(1)). For the purpose of docket control, the case comes before the Court on its own motion.

The plaintiff's claims against Defendant Roal (Marion's warden) survived threshold review only in the form of potential injunctive relief. (*See* Doc. 5). According to a process receipt returned on October 31, Roal has retired from the federal Bureau of Prisons. Because she is no longer in a position to execute any equitable remedies, Defendant Roal is no longer a proper defendant in the lawsuit. *See Gonzalez v. Feinerman*, 663 F.3d 311, 315 (7th Cir. 2011). The United States Attorney's Office has notified the Court that the current warden at USP Marion is "J.S. Walton." (Doc. 23). Walton shall be substituted as a defendant in Roal's place. *Id.*; Fed.R.Civ.P. 25(d).

It is therefore **ORDERED** that, pursuant to Fed.R.Civ.P. 25(d), “J.S. Walton” is hereby **SUBSTITUTED** in place of Defendant Wendy J. Roal.. Further, the Clerk is **DIRECTED** to add “J.S. Walton” as a defendant (in his/her official capacity only) in Roal’s place, and to terminate Wendy J. Roal as a defendant. Finally, the Clerk of Court is directed to complete, on Plaintiff’s behalf, a summons and form USM-285 for service of process on Defendant Walton; the Clerk shall issue the completed summons. The United States Marshal **SHALL** serve Defendant Walton pursuant to Federal Rule of Civil Procedure 4(e). All costs of service shall be advanced by the United States, and the Clerk shall provide all necessary materials and copies to the United States Marshals Service.

IT IS SO ORDERED.

DATE: December 11, 2012

s/ Michael J. Reagan
MICHAEL J. REAGAN
UNITED STATES DISTRICT JUDGE